

REMARKS

Claims 1–35 are pending in this Application. In this response, Applicants have amended claims 1, 3, 4, 6, 9, 11 and 17. Applicants have canceled claims 5, 13 and 16 and have added claims 36–43. Accordingly claims 1–4, 6–12, 14, 15 and 17–43 are at issue in this Application.

Summary

In the Office Action dated December 20, 2002, the Examiner allowed claims 20–35. Based on the Examiner's rejections, claims 1–4, 5–12, 14, 15 and 17–19 are either amended by Applicants or argued as distinguishable over the cited prior art.

Claims 36–43 are added in this Application. These claims include one independent claim and are directed to allowable subject matter previously presented in this Application as originally filed. These claims are supported by the specification, drawings, originally filed claims and the like, such that no new matter has been introduced.

Allowed Claims

Claims 20–35 are allowed and have not been amended in this response.

Claim Rejections – 35 U.S.C. § 103

The Examiner has rejected claims 1–2, 4 and 7–19 under 35 U.S.C. § 103 as allegedly rendered obvious over Seal. Claims 3, 5 and 6 are also rejected as obvious over Seal and in view of Schlosser et al., Emmett et al. and Wittaker et al., respectively. Applicants respectfully traverse the claim rejections as the primary reference, Seal, upon which the Examiner relies does not teach, disclose or suggest structure claimed in the present application. Further, none of the cited references relied upon by Examiner provide any teaching to combine references, or suggestion to modify one patent reference in view of another, such as the combination Examiner asserts. Accordingly, Applicants respectfully submit that the alleged combination of prior art is improper.

The Seal reference discloses a shelf embodiment or member 60 that includes a pair of tubular strut members 62. See (Seal column 3, lines 47 through 49). The reference discloses that the tubular

strut members 62 of the shelf member 60 are secured to several leg assemblies 50, 52, 54 and 56 by a fastening means and a separate bolt 66. See (Seal column 3, lines 52 through 55). A butterfly nut 64 is suggested as an example of a fastening means. See (Seal column 3, lines 54 through 55). Therefore, the Seal patent merely teaches securing strut members 62 secured to the grill assembly by a separate bolt 66 inserted into a butterfly nut or the like. Also, the Seal patent discloses this separate fastener being inserted into an open end of a tube of the frame structure, much as other conventional barbecue cart frame assemblies, which required numerous pieces for assembly and coordination of multiple pieces together for a user to assemble the cart frame.

In contrast, Applicants claim a shelf positioned within a barbecue grill assembly with a pin and aperture arrangement. In the present application claims, the pin extends at an edge of the shelf, and is received into the aperture of the grill frame. This structure is distinct from that which is disclosed in Seal, and the other cited references. In fact, the claimed features are so distinct from the locking fastener structure disclosed in Seal that Applicants submit the Seal reference is not even properly considered as a primary reference. Indeed, the Seal patent disclosed the treaded fastener to link the tubular (horizontal) struts to the legs (vertical members) of the grill. In the present invention, in contrast, the pins that extend from the shelf are received into the grill frame members, and thereby support the shelf. In this arrangement, the pins are removably inserted into position, and capable of securement in the grill assembly without the need for attachment by fasteners such as taught by Seal.

Examiner also alleges it would have been obvious for one of ordinary skill in the art to use a pin, rather than a fastener to secure the shelf member 60, as disclosed in Seal. The Examiner also contends that using a pin in lieu of a fastener is a design choice. However, in view of the specific intended functionality of the structure disclosed in the Seal patent, specificity of a threaded butterfly nut, for locking securement of frame members, cannot be ignored. That structure, and teaching thereto, is distinct from the present claimed structure. And, the specific requirement of a threaded fastener in the Seal serves to teach away from use of a pin structure as claimed in this application.

New Claims

Claims 36–43 have been added in this Application by amendment. These claims are directed to allowable subject matter previously presented in the Application as originally filed. Applicants submit these claims are allowable as the recited structures are not taught, disclosed or suggested by the cited references. The reasons for allowance of these claims are much the same as with the discussion above. Applicants direct Examiner's attention to the new independent claim, Claim 37, which specifies the structure of the pin and shelf arrangement. In this claim, the shelf resides in a plane and the pin extends beyond the edge of shelf and dimensioned to be removably received by the aperture. This structure is distinct from the teachings of the reference cited by Examiner, and the newly added dependent claims are likewise distinctly novel over the cited references. Therefore, each of the new claims are allowable, and notification of the same is requested.

CONCLUSION

In view of the foregoing, this Application is submitted to be in condition for allowance, and early notice of the same is respectfully requested. If there are any questions concerning this response or if it will expedite the prosecution of this Application, it is requested that the undersigned attorney be telephoned or otherwise contacted.

Respectfully submitted,

Date: May 20, 2003

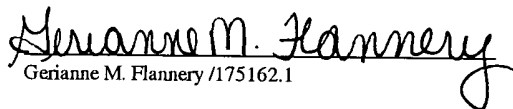
By:



Bradley F. Rademaker
Registration Number 35,331
Wallenstein & Wagner, Ltd.
311 South Wacker Drive, 53rd Floor
Chicago, Illinois 60606-6630
(312) 554-3300
Attorney for Applicants

CERTIFICATE OF MAILING

I hereby certify that this correspondence is, on the date shown below, being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: MAIL STOP FEE AMENDMENT, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on May 20, 2003.



Gerianne M. Flannery /175162.1